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EXAMINER

CHOW, MING

ART UNIT PAPER NUMBER

2645

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/803,257

Applicant(s)

GAMBLE, OLIVER W.

Examiner

Ming Chow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 56-87, 91, 94, 96, 100, 107 and 108 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 56-87, 91, 94, 96, 100, 107 and 108 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election with traverse of claims 56-87, 91, 94, 96, 100, 107, 108 in the reply filed on 5-31-05 is acknowledged. The traversal is on the ground(s) that the group II of Applicant's invention does not meet the definition of class 700 subclass 2. This is not found persuasive because the subcombination has separate utilities such as telephone calls and telephone dial tones or pulses.

The requirement is still deemed proper and is therefore made FINAL.

2. This application contains claims 88-90, 92, 93, 95, 97-99, 106, 109, 110 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Objections

3. Claim 58 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the

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claim(s) in independent form. Claim 57 claimed “translating said tones or pulses into said instructions that can control a specific device located at a remote location” and claim 58 claimed “translating said tones or pulses into instructions. The claim 58 failed to further limit the subject matter of claim 57.

4. Claim 59 is objected to because of the following informalities: The claim preamble states a “method” claim while the claim body claimed “means”. Appropriate correction is required.

5. Claim 67 recites "the desired device" (line 3). There is insufficient antecedent basis for this limitation in the claim.

6. Claim 68 is objected to because of the following informalities: Claim 68 depends on claim 12 which is a cancelled claim. Appropriate correction is required.

7. Claim 80 recites "the position" (line 2), “the relative position” (line 3). There is insufficient antecedent basis for this limitation in the claim.

8. Claim 81 recites "the information from a remote input terminal". There is insufficient antecedent basis for this limitation in the claim.

9. Claims 85, 86, 100 recite "the transmitter", “said tones or pulses”, “said incoming instructions”. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 59 (and other claims where the same rejected limitation is claimed) is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “receiving one or more tones or pulses” is not clearly defined. It is unclear the “tones or pulses” are mutually exclusively received at the same time or are mutually inclusively received at the same time.

11. Claim 67 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term “it” (line 5 and line 13) is not clearly defined. It is unclear the “it” refers to “a means” (line 4), or “central computer” (line 4), or “incoming communication” (line 4), or others.

Also, the claimed “said incoming communications” (plural) is not clearly defined. Claim 67 claimed, in line 4, “incoming communication” (singular).

12. Claim 68 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “a means for both the central computer and the remote location to instructional information.....communication network” is not clearly defined. The Examiner cannot understand the claimed language.

13. Claims 69, 72, 80, 107 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “position of said tones or pulses” is not clearly defined. It is unclear the “position” refers to “a location” (for example, on a user device, or on a server, or in a particular work place) or others.

14. Claim 78 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “incoming instructions a memory” is not clearly defined. The Examiner cannot understand what is “incoming instructions a memory”.

15. Claim 80 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “the processor” (line 3) is not clearly defined. It is unclear the claimed “the processor” refers to “a processor” (line 3 claim 78) or “a processor” (line 1 claim 80).

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16. Claim 81 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "able to receive" is not clearly defined. It is unclear the "a processor" is able to receive or "a remote location" is able to receive.

Also, the claimed "them" (line 16) is not clearly defined. It is unclear what the claimed "them" refers to.

17. Claim 91 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "the communication system is off hook" is not clearly defined. To one skilled in the art the "off hook" may refer to a telephone set. It is unclear what does it mean "the communication system is off hook".

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make

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and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

18. Claim 56 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The phrase “determining whether a communication system located at a remote location is able to accept instructions from a central computer” is not disclosed by the specification. The specification disclosed, on line 21-22 page 39, the router (claimed “a communication system located at a remote location”) determines if the DTMF (instructions from the user device) should be accepted based on the access code. The specification did not support “determining a communication system is able to accept from a central computer”.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

19. Claims 56-62, 66-73, 77-83, 87, 91, 94, 96, 100, 107, 108 are rejected under 35 U.S.C. 102(e) as being anticipated by Walsh et al (US: 6144848).

Regarding claims 56, 78, 81, 91, 94, Wasl et al teach on item 110 Fig. 1A, host server (claimed "a central computer"). Walsh et al teach on Fig. 3-6, a plurality of user devices (claimed "a plurality of remote data entry points").

Walsh et al teach on Fig. 3-6, column 8 line 17 to column 26 line 1, a plurality of different modes of user devices.

Walsh et al teach on column 10 line 38-40, bar coded information in a printed media (claimed "a method for storing instructions"). Walsh et al tech on column 10 line 37-62, the host computer processes bar code information (claimed "a method for processing instructions") to provide requested information.

Walsh et al teach on column 7 line 35-38, encryption and authorization verification methods (claimed "determining instructions are authorized to be accepted and forwarded"). Also, the authorization determines whether the host server (claimed "a communication system located at a remote location) is able to accept instructions.

Walsh et al teach on column 35 line 18-20, the host server connects (claimed “relaying”) the user to a source of additional product/sales or service information (claimed “a specific device at the remote location”).

Regarding claims 57, 58, 60, 61, 68, 69, 71, 72, 79, 80, 82, 83, 107, 108, Walsh et al teach on column 7 line 3-16, DTMF command instructions are interpreted by applications. It is inherent the DTMF are received in orders.

Regarding claims 59, 62, 67, 70, 73, 96, all rejections as stated in claim 56 above apply.

Walsh et al teach on column 3 line 26, call progress monitor (claimed “means for monitoring a communication network”), and column 30 line 66-67, the host server monitors communication path for incoming calls. Walsh et al teach on column 35 line 18-20, the host server connects the user to a source of additional product/sales or service information. The host server determine the link between the host server and the device located at a remote site.

Regarding claims 66, 77, 87, 100, Walsh et al teach on column 8 line 17 to column 9 line 18, DTMF signals are transmitted via a modem and received by a CPU (reads on claimed “DTMF tones are converted and transmitted as electrical pulses”).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 63, 74, 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et al as applied to claim 60 above, and in view of Segal et al (US: 6167251).

Walsh et al failed to teach “the tones or pulse are transmitted by an internet central server”. However, Segal et al teach on Fig. 32, a cellular phone with an internet connection.

It would have been obvious to one skilled at the time the invention was made to modify Walsh et al to have the “the tones or pulse are transmitted by an internet central server” as taught by Segal et al such that the modified system of Walsh et al would be able to support the internet central server to the system users.

21. Claims 64, 75, 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et al as applied to claim 60 above, and in view of Irie (JP: 410126494).

Walsh et al failed to teach “converting said.....incoming instructions”, However, Irie teaches on SOLUTION – converting DTMF command signals to infrared signals by a telephone set.

It would have been obvious to one skilled at the time the invention was made to modify Walsh et al to have the “converting said.....incoming instructions” as taught by Irie such that the

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modified system of Walsh et al would be able to support the converting DTMF to IR to the system users.

22. Claims 65, 76, 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et al as applied to claim 60 above, and in view of Goto et al (US: 6044278).

Walsh et al failed to teach “converting said.....incoming instructions”. However, Goto et al teach on column 4 line 65-67, converting DTMF signals to voice signals.

It would have been obvious to one skilled at the time the invention was made to modify Walsh et al to have the “converting said.....incoming instructions” as taught by Goto et al such that the modified system of Walsh et al would be able to support the converting DTMF to audio data to the system users.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

23. Any inquiry concerning this communication or earlier communication from the examiner should be directed to the examiner Ming Chow whose telephone number is (571) 272-7535. The examiner can normally be reached on Monday through Friday from 8:30 am to 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached on (571) 272-7547. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (571) 272-2600. Any inquiry of a general nature or relating to the status of this application or proceeding should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to Central FAX Number 571-273-8300.

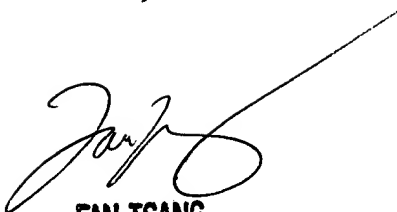
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Patent Examiner

Art Unit 2645

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